

EXHIBIT 140

1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
2 CHARLESTON DIVISION

3 IN RE: AQUEOUS)
FILM-FORMING FOAMS)
4 (AFFF) PRODUCTS) MDL NO.
LIABILITY LITIGATION) 2:18-mn-2873-RMG
5 _____)
THIS DOCUMENT RELATES)
6 TO ALL CASES)

7
8 FRIDAY, JUNE 25, 2021
9 CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

10 - - -

11 Remote videotaped deposition of
12 John Farley, Volume II, held remotely at the
13 location of the witness in Washington, DC,
14 commencing at 9:04 a.m. Eastern Time, on the
15 above date, before Carrie A. Campbell,
16 Registered Diplomat Reporter and Certified
17 Realtime Reporter.

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21
22 GOLKOW LITIGATION SERVICES
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deps@golkow.com
23
24
25

1 A. Okay.

2 Q. Sorry. Just to be clear, is it
3 your understanding or your memory that agent
4 13 is 3M Australia's RF6 foam?

5 A. I can't verify that it was
6 agent 13, but I'm fully aware and I've done
7 fire testing using the Solberg RF3 agent.

8 Q. And is the Solberg RF3 agent
9 the same agent as the 3M Australia RF6 agent?

10 A. Well, it's -- the RF6, which is
11 really rehealing foam 6 percent, would be a
12 6 percent concentrate as opposed to the
13 3 percent concentrate RF3.

14 Q. Okay. Sorry.

15 So the Solberg -- did Solberg
16 also buy or -- buy the rights to or
17 manufacture RF6 as well after 3M stopped
18 making it?

19 A. Yes. It's currently owned by
20 Perimeter Solutions, I believe.

21 Q. Okay. On a different topic, is
22 one of your job responsibilities to answer
23 questions for congress people from time to
24 time?

25 A. If I'm directed to do so.

1 Generally if there was congressional inquiry,
2 it would go to the Department of Defense
3 first or Department of Navy. Then it usually
4 goes to NAVSEA. And then everyone tells me
5 to look at it and draft it up and send it
6 back up the chain.

7 Q. So sometimes it makes its way
8 through the chain of command to you if it's
9 something that's kind of in your wheelhouse
10 as a subject matter expert?

11 A. Yes, sir.

12 Q. Okay. Do you recall in 2014 a
13 Congressman Rogers from Alabama asking you
14 about some questions that he had gotten from
15 a company in his district regarding a more
16 environmentally friendly firefighting foam?

17 A. I'm aware, and I personally met
18 him at -- on -- I went to the Hill to meet
19 him to discuss the issue.

20 Q. What do you remember about
21 either a written response to Congressman
22 Rogers or your discussion with him in person?

23 A. I remember he had a number of
24 questions that he would like to be asked --
25 asked, and so during our discussion, I was

1 answering some of the questions.

2 And then it was decided that it
3 needed to be formal, a response, and so after
4 that meeting I got the list of questions, and
5 then I responded to those questions. And
6 that was submitted to the chain of command
7 for transfer to the Congressman.

8 Q. Do you recall what company was
9 sort of presenting these questions to
10 Congressman Rogers that you were answering?

11 A. Amerex.

12 Q. And what foam was it that they
13 were asking Congressman Rogers to press with
14 the Navy?

15 A. The Solberg product.

16 Q. The RF3 or RF6 we were just
17 talking about?

18 A. That is correct.

19 (Farley Exhibit DCC172 marked
20 for identification.)

21 QUESTIONS BY MR. MONTGOMERY:

22 Q. Okay. Let's take a look, Joe,
23 at DCC172.

24 Is this document familiar to
25 you, Mr. Farley?

1 A. Yes, sir, I wrote it.

2 Q. So what is -- just describe for
3 the jury in general terms, what is DCC172?

4 A. It is a response to a
5 congressional inquiry. In this case it was
6 Congressman Rogers, who represented the Third
7 District in Alabama.

8 Q. And what's the date of DCC172?

9 A. 24 September 2014.

10 Q. So I want to skip down in the
11 interest of time to the page marked E-1,
12 which is the third page of the PDF.

13 Just describe generally, what
14 are you doing here? That's not a very good
15 question.

16 How is this structured that
17 you're -- that you're providing to
18 Congressman Rogers?

19 A. The bullets in bold are the
20 specific questions that he would like a
21 response to. And following the -- the
22 bullet, the sub-bullets or the -- then I
23 would make comment, and in some cases I would
24 make comment related to safety cost or just a
25 generalized comment.

1 Q. Okay. And so is it right that
2 the issue that's being presented at the very
3 top is what Congressman Rogers was asserting
4 to you, in other words, that the current mil
5 spec for firefighting foams mandates the use
6 of fluorinated chemicals that are harmful to
7 military personnel and the environment?

8 MR. DOUGLAS: Objection to form
9 and foundation.

10 THE WITNESS: Could you say
11 that question again?

12 QUESTIONS BY MR. MONTGOMERY:

13 Q. Sure.

14 I'm just asking, is the issue
15 that's presented there about fluorinated
16 chemicals that are harmful to military
17 personnel and the environment, is that
18 something that Congressman Rogers presented
19 to you, or is that an issue that you wrote?

20 MR. DOUGLAS: Objection. Form
21 and foundation.

22 THE WITNESS: That was a
23 question by the Congressman or his
24 staff, yes.

25

1 QUESTIONS BY MR. MONTGOMERY:

2 Q. Okay. Did you at the time
3 agree with the assertion that fluorinated
4 chemicals are harmful to military personnel
5 and the environment?

6 MR. DOUGLAS: Objection to
7 form.

8 Can we get the date of the
9 document?

10 QUESTIONS BY MR. MONTGOMERY:

11 Q. You can answer.

12 MR. DOUGLAS: Well, the date's
13 important.

14 THE WITNESS: I certainly knew
15 the -- there were environmental
16 consequences.

17 QUESTIONS BY MR. MONTGOMERY:

18 Q. Did you agree with the
19 assertion that fluorinated chemicals are
20 harmful to military personnel in 2014, the
21 date of this document?

22 A. I do not necessarily agree with
23 saying it was harmful, because the mil spec
24 says that as far as the need -- as far as
25 NAVSEA is concerned, the qualified products

1 are not harmful to military personnel if it's
2 being used for its intended use.

3 Q. The fourth bullet down is
4 entitled "The specification does not allow
5 for newer alternative technologies that are
6 safer and less expensive."

7 And can you just read for the
8 jury -- well, let me ask you this. You made
9 a general comment, a safety comment and a
10 cost comment.

11 What's your safety comment
12 there for the Congressman?

13 A. Well, that's just getting to
14 the point where we would want rapid
15 extinguishment to protect the people that are
16 fighting the fire and also minimize the
17 damage to military equipment.

18 Q. You call that in the document
19 the principal DOD safety concern. You say it
20 relates to "limiting personnel exposure to
21 large, unconfined fires, which may include
22 ordnance, flight crew rescue and limiting
23 damage, both primary and secondary, to vital
24 fleet assets."

25 So what did you mean when you

1 said that was the principal DOD safety
2 concern?

3 MR. HALL: Object to the form.

4 THE WITNESS: Well, I think
5 that's -- it's my understanding that
6 the Department of Defense wanted to
7 ensure that we were using an agent
8 that would help to limit exposure or
9 harm to the people fighting the fires,
10 limit the possibility of ordnance
11 cooking off, crew safety, rescuing the
12 pilot, which could include an NFO,
13 limiting the damage of secondary, not
14 only to the fleet assets as far as
15 aircraft is concerned but the
16 structure of the ship itself.

17 QUESTIONS BY MR. MONTGOMERY:

18 Q. Thank you for including NFOs in
19 that. I appreciate that.

20 MR. HALL: Could you ask
21 Mr. Farley what NFO means for those of
22 us that don't know?

23 QUESTIONS BY MR. MONTGOMERY:

24 Q. For the jury, what is an NFO?

25 A. A naval flight officer.

1 Q. In sort of lay terms, can you
2 describe what a naval flight officer is?

3 A. Well, it depends on the
4 aircraft. It could be the bombardier, or in
5 most cases be the RIO, radar intercept
6 officer, who assists the pilot to perform the
7 mission.

8 Mr. Montgomery could probably
9 tell you a lot more about what an NFO is.

10 Q. Maybe some other time.

11 Yesterday we talked about
12 SERDP, the Strategic Environmental Research
13 and Development Program.

14 So, Joe, do you have the
15 exhibits that were sent along?

16 JOE WILLS: Yes, I have the
17 first five, and then the larger file
18 attachment is downloading now.

19 MR. MONTGOMERY: Okay. Let me
20 start with the one that's
21 Bates-stamped AMEREX 0249588. And I'm
22 going to go a little bit out of order
23 and designate that one DCC644.

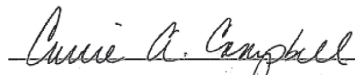
24 MR. DOUGLAS: Okay. So we
25 don't have that, so we can't print out

CERTIFICATE

I, CARRIE A. CAMPBELL, Registered
Diplomate Reporter, Certified Realtime
Reporter and Certified Shorthand Reporter, do
hereby certify that prior to the commencement
of the examination, John Farley, was duly
sworn by me to testify to the truth, the
whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the
foregoing is a verbatim transcript of the
testimony as taken stenographically by and
before me at the time, place and on the date
hereinbefore set forth, to the best of my
ability.

I DO FURTHER CERTIFY that I am
neither a relative nor employee nor attorney
nor counsel of any of the parties to this
action, and that I am neither a relative nor
employee of such attorney or counsel, and
that I am not financially interested in the
action.



CARRIE A. CAMPBELL,
NCRA Registered Diplomate Reporter
Certified Realtime Reporter
Notary Public

Dated: June 30, 2021

Acknowledgment of John P. Farley

I, John P. Farley, hereby certify that I have read the transcripts of Volumes I and II of my deposition, taken on June 24 and 25, 2021, in *In re Aqueous Film-Forming Foam Products Liability Litigation*, No. 2:18-mn-02873-RMG (D.S.C.), and that the same are correct transcriptions of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substances noted in the following sheets. I declare under penalty of perjury that the foregoing is true and correct.

John P. Farley

Executed July 26, 2021

Deposition of John P. Farley Errata, Volume I (June 24, 2021)

Page/Line	Current	Change	Reason
6:10	ElanaCates@usdoj.gov	Elana.M.Cates@usdoj.gov	Accuracy
6:12	Washington, DC 20002 (202) 616-4269	Washington, DC 20002 (202) 616-4451	Accuracy
12:14	KARRIN MINOTT, Trial Attorney, Department of Defense, Navy Litigation Office	KARRIN MINOTT, Senior Trial Attorney, Department of the Navy, Office of General Counsel	Accuracy
12:15	TIFFANY SIRC, attorney, Navy	TIFFANY SIRC, Assistant Counsel, Office of Counsel, Naval Research Laboratory	Accuracy
16:13	DL1385- Exhibit 4, Declaration of John P. Farley 101	DL1385-4 Exhibit 4, Declaration of John P. Farley 101	Missing digit in exhibit number
21:11-12	fire protection systems in fleet doctrine for the	fire protection systems and fleet doctrine for the	Incorrect transcription
38:23	fire protectant agents that are	fire protection agents	Misspoke
44:18	received one in 1969 {sic} on a method	received one in 1966 on a method	Misspoke
45:25	In fact, if you look at that pattern,	In fact, if you look at that patent	Misspoke
47:8	holds, 13 {sic} of which are active patents.	holds, 1300 of which are active patents.	Misspoke
48:14	6 percent concentrate form.”	6 percent concentrate foam.”	Misspoke
72:25	idea of the overarcng. You know, normally	idea of the overarcng -- you know, normally	Punctuation accuracy
89:2	perfluorooctane sulfonate, or PFOS, by 2000	perfluorooctane sulfonate, or PFOS, by 2002	Misspoke
103:13	A. Yes, this is the 1960 -- this	A. Yes, this is the 1969 -- this	Misspoke
124:21	they're -- especially with the	there -- especially with the	Incorrect transcription
132:9	FC-195 {sic} Light Water; manufacturer, 3M;	FC-196 Light Water; manufacturer, 3M;	Misspoke
137:4	changed after this whole study investigation	changed after this whole study investigated	Misspoke

Page/Line	Current	Change	Reason
163:16-17	ability analysis to support both the DDX and future carriers programs at LHAR.	vulnerability analyses to support both the DDX and future carriers programs and LHA(R).	Incorrect transcription
164:12-13	vessel, which is now called the X -- the fast -- expeditionary transport vessel.	vessel, which is now called the Expeditionary Fast Transport (EPF) vessel.	Misspoke
172:17	first agent we requalified was the foam tech	first agent we requalified was the PhosChek	Incorrect transcription
173:10	C6 agents, and the FAS check 3 percent	C6 agents, and the PhosChek 3 percent	Incorrect transcription
173:22	FAS check. I don't know what they're using	PhosChek. I don't know what they're using	Incorrect transcription
175:19	heat modes in the trainers were not as high	heat exposure in the trainer was not as high	Misspoke
178:24	do scale up to real world -- real world	does scale up to real world -- real world	Misspoke
181:11	there are station-designated hose rails up on	there are station-designated hose reels up on	Incorrect transcription
182:1	Q. -- aimlessly; is that right?	Q. -- seamlessly; is that right?	Incorrect transcription
182:11	in 60 seconds. So control being 70 percent	in 60 seconds. So control being 90 percent	Misspoke
185:14	they're going to meet that mark, so they'll	they're going to meet that mark, so they're	Misspoke
190:21	group, CO5P, and it's related to AFFF,	group, O5P5, and it's related to AFFF,	Incorrect transcription
215:6	one that says -- starts with "Three	one that says -- starts with "3.	Incorrect transcription
218:12	NAVSEA, O5P5.	NAVSEA, O5P5.	Incorrect transcription
220:14-15	for that -- those two -- (audio interruption) -- that was available for the	for that -- those two analytes that were available for the	Missing testimony; incorrect transcription
222:20-21	concentrations for two particular PFAS, which is namely PFOS and PFOA."	concentrations for two particular" PFAS, which is namely PFOS and PFOA.	Punctuation accuracy

Page/Line	Current	Change	Reason
223:6	accordance with the FY '20 NDA requirements.	accordance with the FY '20 NDAA requirements.	Incorrect transcription
223:8-9	A. Okay. Environmental Strategic Technology Demonstration Program.	A. Okay. Environmental Security Technology Certification Program.	Misspoke
223:15	SERDP program, which is an OSD facility,	SERDP program, which is an OSD organization,	Misspoke
223:17	to develop environmentally programs to solve	to develop environmentally -- programs to solve	Punctuation accuracy
239:20	to meet the NDA 20 -- the NDA requirement by	to meet the NDAA '20 -- the NDAA requirement by	Incorrect transcription
241:9	the COO of NRL to the COO of Naval Facilities	the CO [Commanding Officer] of NRL to the CO of Naval Facilities	Incorrect transcription
248:19	technically from the COO, correct?	technically from the CO, correct?	Incorrect transcription
251:14	A. Corrine.	A. Karrin.	Incorrect transcription
251:17	Q. Corrine.	Q. Karrin.	Incorrect transcription
251:20	from lawyers from DOJ or Corrine?	from lawyers from DOJ or Karrin?	Incorrect transcription
268:11	testing, if I detect PFAS or PFOA, does that	testing, if I detect PFOS or PFOA, does that	Incorrect transcription
270:8	follow-on PFOS testing has essentially	follow-on PFAS testing has essentially	Incorrect transcription
279:14	A. Well, I'm the core of the	A. Well, I'm the COR [Contracting Officer Representative] of the	Incorrect transcription
289:1-2	NAVSEA, which they are qualified {sic} to do on the process of the QPL, is to	NAVSEA, which they are required to do under the QPL process, is to	Accuracy
294:23	at NRL does the PFOS analysis that's ongoing	at NRL does the PFAS analysis that's ongoing	Incorrect transcription
298:2	the initial PFOS testing done at DOD labs	the initial PFAS testing done at DOD labs	Incorrect transcription
300:5	that you just mentioned to test the PFOS	that you just mentioned to test the PFAS	Incorrect transcription

Page/Line	Current	Change	Reason
300:14	limit of detection is much improved	limit of quantitation is much improved	Misspoke
301:25	A. I have the PFOS data --	A. I have the PFAS data --	Incorrect transcription
305:6	protocol, the limit of detection is lower.	protocol, the limit of quantitation is lower.	Misspoke
305:12	Q. -- sorry, detection limit.	Q. -- sorry, quantitation limit.	Accuracy
305:17	that will have a lower detection limit?	that will have a lower quantitation limit?	Accuracy
306:8	highly confidential stance is	highly confidential stamp is	Incorrect transcription
307:14	Professor Fields' method for testing for PFOS	Professor Fields' method for testing for PFAS	Incorrect transcription
309:11	foams to determine PFOS content?	foams to determine PFAS content?	Incorrect transcription
311:2	resonance technology to examine PFOS.	resonance technology to examine PFAS.	Accuracy
311:5	fluor -- is this PFOS or total fluorine	fluor -- is this PFAS or total fluorine	Incorrect transcription
312:19	from the COO of NRL is entitled "DOD AFFF"	from the CO of NRL is entitled "DOD AFFF"	Incorrect transcription
324:10	the NDA requirement.	the NDAA requirement.	Incorrect transcription
324:24-25	compatibility. It included H concentrate testing, H solution testing, and then	compatibility. It included aged concentrate testing, aged solution testing, and then	Incorrect transcription
329:20	eye-opening, for you, revelations about PFOA.	eye-opening, for you, revelations about PFOS.	Accuracy
339:25	1880s, late 1880s. We have -- when I	1980s, late 1980s. We have -- when I	Misspoke
340:4-5	generated, both the AFFF solution fuel and water, are all disposed of	generated, both the AFFF solution, fuel and water, are all disposed of	Punctuation accuracy

Deposition of John P. Farley Errata, Volume II (June 25, 2021)

Page/Line	Current	Change	Reason
356:7	KARRIN MINOTT, Trial Attorney, Department of Defense, Navy Litigation Office	KARRIN MINOTT, Senior Trial Attorney, Department of the Navy, Office of General Counsel	Accuracy
356:8	TIFFANY SIRC, Navy	TIFFANY SIRC, Assistant Counsel, Office of Counsel, Naval Research Laboratory	Accuracy
357:11	US 1 Performance Analysis of Foam Agents Required to Combat Liquid 429	US Farley 1 Performance Analysis of Foam Agents Required to Combat Liquid 429	Incorrect exhibit designation
366:5	A. That is correct. But PFAS in	A. That is correct. But PFAS and	Incorrect transcription
377:5	Environmentally Improved AFFF” from the COO	Environmentally Improved AFFF” from the CO	Incorrect transcription
380:22	personal experience in concerned, we started	personal experience is concerned, we started	Incorrect transcription
397:3	first or Department of Navy. Then it usually	first or Department of the Navy. Then it usually	Incorrect transcription
398:6	that was submitted to the chain of command	that was submitted up the chain of command	Misspoke
399:24	make comment related to safety cost or just a	make a comment related to safety, cost, or just a	Incorrect transcription; punctuation accuracy
425:4	does this describe the performance test for	does this describe the performance tests for	Incorrect transcription
432:1-2	fluorine-free product in this -- (audio interruption).	fluorine-free product in this new MilSpec that will be used for all shore-based DoD military applications.	Missing testimony
437:3	Q. Did Jennifer Seed {sic} from	Q. Did Jennifer Field from	Misspoke
440:24	A. That’s it’s persistent in the	A. That it’s persistent in the	Incorrect transcription